

### **REMARKS**

This is in response to the Office Action mailed August 23, 2005. Claims 1 and 29 have been amended. Claims 2 and 32 have been canceled. Claims 13, 15-17, 33, 42-52, 62, 66 and 69 are withdrawn. Claims 1, 3-12, 14, 18-31, 34-41, 53-61, 63-65, 67-68, and 70-73 remain pending. Support for the claim amendments can be found throughout the specification and the claims and specifically on page 7, line 6 (vertical surface); page 9, line 30 to page 10, line 4 (cover includes an overhang portion), claim 2 (station encloses the first and second areas on two sides); and claim 32 (station comprises a second area).

### **Elections/Restrictions**

Applicants continue to object to the Office Action's restriction requirement, but note that the restriction requirement is deemed final. Applicants reserve the right to petition this objection at a later date.

The Office Action stated that newly amended claims 53-61, 63-65, 67-68 and 70-73 are directed to an invention that is independent or distinct from the invention originally claimed because the amended claims are directed to a combination of an insect station and a mounting surface having a hole provided thereon which has not been previously claimed. Applicants respectfully traverse this rejection. Applicants specifically point to claim 22 and claim 29 among others which claim an insect suppression station having a mounting structure that includes holes or an insect station comprising a back side comprising a mounting structure. Because these amended claims are directed to an invention originally claimed, it is respectfully requested that claims 53-61, 63-65, 67-68, and 70-73 be reinstated and examined on the merits.

Applicants note that the Office Action discusses whether the claims are directed to a combination and subcombination. To the extent the Office Action is trying to make a restriction

requirement, Applicants respectfully disagree. Applicants request further clarification if additional action is needed.

**Rejections Under 35 U.S.C. §112 Second Paragraph**

The Office Action has rejected claims 1-12, 14, 18-32 and 34-41 under 35 U.S.C. §112 second paragraph as indefinite. Applicants respectfully traverse this rejection. Applicants continue to respectfully submit that it is clear which claims require the suppression station and which claims add in the requirement of the suppression devices as well. The Office Action suggests that this is clear also. Specifically, on page 4 of the Office Action, the Office Action states “with respect to the Applicant stating that Claim 1 does not require the insect suppression device, it is noted that all claims dependent thereon also do not require the insect suppression device as it is merely stated as a functional recitation in the independent claim and thereby requires the prior art to only be capable of use with such a suppression device.” Applicants continue to respectfully request clarification on how this distinction can be more clearly set forth to the Examiner’s satisfaction.

**Rejections Under 35 U.S.C. §102(e)**

The Office Action has rejected claims 1, 3, 29 and 30 under 35 U.S.C. §102(e) as anticipated by Johnson et al. (U.S. Pat. No. 6,807,768). Applicants respectfully traverse this rejection.

Applicants continue to submit that Johnson does not teach the present invention. As previously stated, there is no teaching in Johnson of the underside of the lid being capable of receiving an insect suppression device, or including retaining structure configured to contain an insect suppression device on the underside of the cover of Johnson. Claim 1 of the present invention includes a cover for receiving an insect suppression device where the cover includes

the structure configured to retain the insect suppression device. Because Johnson does not teach these elements of claim 1, claim 1 is patentable over Johnson. As a result, any claim that depends from claim 1 is also patentable over Johnson for at least the same reasons.

Claim 29 describes an insect suppression station that includes structure for deflecting water from a first area that receives an insect suppression device. Specifically, the station defines a frustoconical surface extending from the back side of the station. In contrast, Johnson describes the use of feet to elevate the base from the surface upon which is mounted. The use of feet as shown in Johnson is significantly different from the use of a frustoconical surface as described in the present invention. The base station in Johnson is intended for use with rodents, whereas the present invention is intended for use with insects. If feet were used with the present invention, as taught by Johnson, the feet would provide a harborage for insects and provide the insects with protection from the elements instead of acting as an insect bait station designed for baiting, trapping or monitoring the insect. The Office Action stated that Applicants' intended use with insects must result in a structural difference between the claimed invention and Johnson in order to patentably distinguish the claimed invention from the prior art. In the present invention, the intended use with insects has resulted in a structural difference, specifically the presence of a frustoconical surface instead of feet as taught by Johnson. Applicants submit that this structural difference patentably distinguishes the present invention from Johnson.

Applicants continue to believe that Johnson does not teach the invention as claimed. Applicants have amended claim 1 and claim 29 solely to advance prosecution and not to acquiesce to the Office Action's rejections. Specifically, Applicants have added the elements of claim 2 into claim 1, specifically that the station encloses the first and second areas on at least two sides. Applicants have also added claim 32 into 29, specifically that the station comprises

the second area for receiving a second removable and replaceable insect suppression device.

Claims 2 and 32 were not rejected as anticipated by Johnson. Accordingly, it is believed that claims 1 and 29, and all of the dependent claims that depend from claims 1 and 29 are now considered patentable over Johnson and it is respectfully requested that this rejection be withdrawn.

The Office Action has rejected claims 1 and 24-28 under 35 U.S.C. §102(e) as anticipated by Duston et al. (U.S. Pat. No. 6,796,082). Applicants respectfully traverse these rejections.

Duston is directed to a base station adapted to be mounted securely into the ground. In contrast, Applicants' invention is designed to be mountable on a variety of surfaces, including vertical surfaces. Applicants have amended claim 1 to call out that the base of the insect suppression station is mountable on a vertical surface. Applicants' invention can be mounted on a variety of surfaces including horizontal surfaces, incline surfaces and vertical surfaces. The base station disclosed in Duston is not capable of being mounted on a vertical surface due to the presence of a large spike or elongated stake. As a result, claim 1 and any dependent claims that depend from claim 1 are patentable over Duston. In addition, the elements of claim 2 have been incorporated into claim 1, specifically that the station encloses the first and second areas on at least two sides. Claim 2 was not rejected under §102(e) as anticipated by Duston. Accordingly, it is respectfully requested that this rejection be withdrawn.

**Rejections Under 35 U.S.C. §103(a)**

The Office Action has rejected claims 1-12, 14, 18-20, 25 and 26 under 35 U.S.C. §103(a) as being unpatentable over Demarest et al. (U.S. Pat. No. 4,841,669). Applicants respectfully traverse this rejection.

Demarest is directed to an insect bait device where the bottom portion and the top portion are identical. Applicants have amended claim 1 to call out the element that the cover includes an overhang portion that extends beyond the base. This new limitation makes the cover of the present invention different from the base. Demarest does not teach a cover or top portion that is different from the base. Demarest does not teach a cover portion that includes an overhang portion that extends beyond the base. Accordingly, it is respectfully requested that this rejection be withdrawn.

The Office Action has rejected claims 22 and 23 as unpatentable over Johnson (U.S. Pat. No. 6,807,768). Applicants respectfully traverse this rejection. Applicants have amended claim 1 to incorporate the elements called out in claim 2. Johnson does not teach or suggest all of the elements of claim 1 as amended. Because claims 22 and 23 ultimately depend from claim 1, they also include all of the elements of amended claim 1. Accordingly, it is respectfully requested that this rejection be withdrawn for these reasons and for those reasons previously discussed with respect to claim 1.

The Office Action has rejected claims 29, 31, 32, 34-39 and 41 under 35 U.S.C. §103 as unpatentable over Demarest et al. (U.S. Pat. No. 4,841,669) in view of Johnson et al. (U.S. Pat. No. 6,807,768). Applicants respectfully traverse this rejection. As discussed above, Demarest and Johnson do not teach every element of claim 29 or any dependent claims that depend from claim 29. Specifically, Demarest and Johnson do not teach or suggest either individually or in combination, an insect station having a frustoconical surface and a cover with an overhang portion that extends beyond the first area for the reasons previously discussed. It is respectfully requested that the rejection be withdrawn.

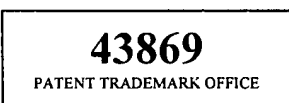
**Summary**

It is respectfully submitted that each of the pending claims is in condition for allowance, and notification to that effect is kindly requested. The Examiner is invited to contact the Applicant's primary attorney-of-record, Anneliese Seifert, at (651) 795-5661, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted,

ECOLAB INC.  
Law Department  
Mail Stop ESC-F7  
655 Lone Oak Drive  
Eagan, Minnesota 55121  
Phone Number: (651) 795-5661  
Fax Number: (651) 204-7507

Dated: November 21, 2005



By: Anneliese M. Seifert  
Name: Anneliese M. Seifert  
Reg. No. 54,434